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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,660	06/27/2003	Arthur M. Glenberg	960296.00082	2688

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EXAMINER:

MOSSER, KATHLEEN MICHELE

ART UNIT	PAPER NUMBER
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3715

DATE MAILED: 04/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/607,660

Applicant(s)

GLENBERG ET AL.

Examiner

Kathleen Mosser

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>01/28/05</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 01/28/2005 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered. The IDS includes several citations directed to complete books. At most the applicant has only provided the title pages and indexes of these documents.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1-6 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. In order for a method to be statutory it must either (a) result in a physical transformation or (b) otherwise produce a useful, concrete and tangible result. Both the inventions of independent claims 1 and 6 state the limitation "such that a comprehension benefit is realized" in identifying the intended outcome of the method. This does not constitute a concrete result. In order for a result to be concrete it must either be assured or the process must have a result that can be substantially repeatable. In the instant case, there is no reasonable expectation that each time, or a vast majority of the times the method is performed that the claimed result will occur. Although it is expected that such an outcome will occur in some instances, this is not enough to have a reasonable expectation of success. Further claim 6, fails to produce a tangible result. For a method to be tangible it must produce a real-world value. In the instant case the claim results in an "imagination" step. The process of imagining

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something does not constitute a real-world application or result, as it is merely a manipulation of an abstract idea or thought. Claims 2-5 fail to correct these deficiencies, and are rejected for the same reasons.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 4, and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by “A,B Seeing: The role of Constructive Processes in Children’s Comprehension Monitoring”: Rubman/Waters (herein after Rubman). Rubman teaches a method including the steps of: reading the test for at least one scenario (reading the stories); and manipulating the relevant physical object or objects in the physical representation of the at least one scenario to act out the plurality of critical sentences in the text (creating the story board), see page 505, from the section entitled “Method”, as in claim 1. The manipulating step practiced for each critical sentence (claim 2) is demonstrated in asking the student to complete the story-board for each of the pages. Regarding claim 4, the storyboards are described in the third full paragraph on page 506 as being portrayed with appropriate backgrounds and as being appropriate for each story. These statements clearly show that the storyboards have realistic attributes relative to one another and to the physical representation of the scenario. Regarding claim 5, the procedures described were overseen by an evaluator, which in this embodiment, is synonymous with an instructor.

4. Claims 1, 3, and 6-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Hon (US 4360345). Hon teaches a method for teaching students having access to a physical representation of at least one scenario (the mannequin and the training software) described in a text (the screen displays)

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having a plurality of critical sentences (the instructions) including: reading the text for the at least on scenario (elements 24, 20 (a)) manipulating the relevant objects in the physical representation of the at least one scenario to act out the plurality of critical sentences in the text (the user performs the step they are instructed to perform), as in claim 1. Regarding claim 3, the step of manipulating may be practiced at in separate trials apart from the plurality of scenarios, as is demonstrated in the "testing" phases of Hon, see col. 11:47-56. Regarding claim 6, reading a second text having plurality of critical sentences for which the subject lacks access to a physical representation of and having the subject imagine the manipulation of such an object is shown in the instances where the use is instructed to imagine "lines" on the chest of the mannequin and make a correct hand position in accordance there with (elements 24 and 20 (c)). Regarding claims 7-10, the system of Hon is packaged as a kit including the mannequin and the software (electronic medium) for describing the scenarios. The instructor's guide (which is electronic) is described as part of the "coaching mode" see col. 6: 41-53.

Conclusion


5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
Stamm et al (US 2003/0118975) teaches a caregiver kit for aiding in the cognitive development of children
Brush et al (US 4867685) teaches an interactive training system much like the one of Hon, but with different content
Mayne (US 5525088) and Gemma (US 6663456) educational systems which include puppets and storybooks were the child is able to act out the story using the puppets

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathleen Mosser whose telephone number is (571) 272-4435. The examiner can normally be reached on M-F 8:00-4:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica Carter can be reached on (571) 272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Kathleen Mosser
Primary Examiner
Art Unit 3715

March 28, 2006